

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division

In Re:

KAREN F. CUNNINGHAM,

Debtor.

Case No: 07-61731-WA1

BANK OF AMERICA, N.A.,

Movant,

Chapter 7

v.

KAREN F. CUNNINGHAM,
ANDREW S. GOLDSTEIN, Trustee,

Respondents.

NOTICE TO PARTIES IN INTEREST

Notice is hereby given that a Hearing will be held before the United States Bankruptcy Court on the 17th day of January, 2008, at 9:30 a.m., or as soon thereafter as counsel may be heard, in the United States Courthouse, 1101 Court Street, Room 210, Lynchburg, Virginia 24504, to consider and act upon a Motion of Bank of America, N. A. for relief from the automatic stay against Debtors filed herein on behalf of Movant.

Melvin R. Zimm, VSB #18017
Patrick J. McKenna, VSB #31058
Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510
(757) 625-6787
Attorneys for Bank of America, N.A.

Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510

BANK OF AMERICA, N.A.

By: /s/Melvin R. Zimm by Patrick J. McKenna
Of Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2007, a true copy of the foregoing Notice along with a true copy of Motion for Relief from the Automatic Stay was submitted for electronic transmittal to Stephen E. Dunn, Attorney for Debtor, and to Andrew S. Goldstein, Trustee, and was mailed, first class, postage prepaid to Karen F. Cunningham, Debtor, at 2232 Ridgewood Drive, Lynchburg, Virginia 24503.

/s/Melvin R. Zimm by Patrick J. McKenna
Melvin R. Zimm

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division

In Re:

KAREN F. CUNNINGHAM,

Debtor.

Case No: 07-61731-WA1

BANK OF AMERICA, N.A.,

Movant,

Chapter 7

v.

KAREN F. CUNNINGHAM,
ANDREW S. GOLDSTEIN, Trustee,

Respondents.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

TO THE HONORABLE WILLIAM E. ANDERSON:

Your Movant, Bank of America, N.A. respectfully represents as follows:

1. That this is a core proceeding within the meaning of the Bankruptcy Code and Rules.
2. That on September 14, 2007, the above-named Debtor filed a voluntary Petition for relief in this Court pursuant to Chapter 7 of the Bankruptcy Code.

Melvin R. Zimm, VSB #18017
Patrick J. McKenna, VSB #31058
Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510
(757) 625-6787
Attorneys for Bank of America, N.A.

Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510

3. That Andrew S. Goldstein was appointed Trustee of the property, has qualified and is now acting.

4. That at the time of the filing of the Debtor's Petition herein, the Debtor had an ownership interest in certain real property and improvements having a street address of 2332 Ridgewood Drive, Lynchburg, Virginia, more particularly described as follows:

All that certain lot or parcel of land lying together with any buildings and improvements thereon, and the privileges and appurtenances thereunto belonging, situate, lying and being in the City of Lynchburg, Virginia, in that portion thereof annexed from the County of Campbell, Virginia, on January 1, 1926, designated as Lot 13 in Block A, on a plat entitled "Block of "Evergreen Subdivision, Bedford & Campbell Counties, Lynchburg, Virginia, for John C. Catherwood, Esq.", made by Wiley & Wilson, Consulting Engineers, dated April 10, 1957, and of record in the Clerk's Office of the Circuit Court for the City of Lynchburg, Virginia, in Deed Book 313, at Page 34, and also of record in the Clerk's Office of the Circuit Court of Bedford County, Virginia, in Subdivision Plat Book 1, at Page 23.

5. That the Movant is the holder of a Note dated April 24, 1998, in the original principal amount of \$87,832.00 with interest thereon from said date at the rate of 7.00% per annum, secured by a Deed of Trust on said real property and improvements recorded in the Clerk's Office of the Circuit Court of the City of Lynchburg, Virginia, on which there is an unpaid principal balance owing to the Movant of \$73,370.39, exclusive of interest and late charges. True copies of said Note and Deed of Trust are attached hereto and incorporated by reference as Exhibits "A" and "B", respectively.

6. That the Debtor has defaulted in the payments due to the Movant relative to the aforementioned Deed of Trust Note totaling the sum of \$3,263.99, inclusive of late charges, exclusive of attorney's fees and costs incident to the filing and prosecution of this Motion. The

Movant reserves the right to specify any additional payment default or delinquency that may accrue between the filing date of this Motion and the time of any hearings scheduled with regard to same.

7. That the Debtor, upon information and belief, does not wish to retain possession of the aforesaid real property and, accordingly, has provided for the surrender of same in Debtor's Statement of Intention filed herein. That in order to institute state foreclosure proceedings relative to the aforesaid real property and improvements, the Plaintiff is required to be relieved from the provisions of the automatic stays of the Bankruptcy Code which presently prohibit such foreclosure.

8. That the Movant is aware that the Court's next regularly scheduled hearing date for this Motion is January 17, 2008, which date will occur more than thirty (30) days from the filing date of this Motion. The Movant is agreeable to scheduling hearing on this Motion on that date and waiving the thirty day time limit imposed by 11 U.S.C. Section 362(e) and maintaining the automatic stay in effect until such hearing date.

9. That the facts hereinabove alleged constitute cause for a grant of stay relief in favor of the Movant pursuant to the provisions of 11 U.S.C. Section 362(d)(1).

WHEREFORE, Movant prays that it be granted relief from the provisions of the automatic stay of the Bankruptcy Code with regard to the above-described real property and improvements including any act necessary to recover possession of same from the Debtor and that the stay of such grant of relief imposed pursuant to the provisions of Rule 4001(a)(3) of the Bankruptcy Rules be waived; and that Movant herein be awarded its attorney's fees and court costs incurred.

BANK OF AMERICA, N.A.

By/s/Melvin R. Zimm by Patrick J. McKenna
Of Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2007, a true copy of the foregoing Motion for Relief from the Automatic Stay was submitted for electronic transmission to Stephen E. Dunn, Attorney for Debtor, and to Andrew S. Goldstein, Trustee, and was mailed, first class, postage prepaid to Karen F. Cunningham, Debtor, at 2232 Ridgewood Drive, Lynchburg, Virginia 24503.

/s/Melvin R. Zimm by Patrick J. McKenna
Melvin R. Zimm